

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HOWARD LEVEY, et al. *

Plaintiffs *

v. * Civil Action No. 06-510 JJF

BOAT AMERICA CORPORATION, et al. *

Defendants *

* * * * *

CROSS-CLAIM AGAINST DELAWARE BAY LAUNCH SERVICE, INC.

Southern Delaware Towing & Salvage, Inc. ("Southern Delaware") by its undersigned attorneys, James W. Bartlett, III, Alexander M. Giles, Semmes, Bowen & Semmes, Eric C. Howard, and Wilson, Halbrook & Bayard, pursuant to Rule 13 of Federal Rules of Civil Procedure, hereby files this cross-claim against Defendant Delaware Bay Launch Service, Inc. ("DBLS") and says:

1. Plaintiffs Howard Levey, John Walter, Susan L. Walter, and Allstate Insurance Company (collectively, "Plaintiffs"), filed a Complaint against Boat America Corporation ("BoatU.S.") and DBLS, alleging, *inter alia*, that BoatU.S. and DBLS are liable to Plaintiffs for property damage to a vessel owned by Howard Levey and for Plaintiffs' personal injuries that were sustained as a result of Defendants' failure to render adequate towing and ungrounding assistance on April 22, 2005.

2. Subsequently, Defendant BoatU.S. filed a Third-Party Complaint against Southern Delaware, alleging, *inter alia*, that Southern Delaware is liable to BoatU.S. in indemnity as a result of language contained in a License/Service Agreement and because DBLS was Southern Delaware's purported agent.

3 Southern Delaware has filed an Answer to the BoatU S. Third-Party Complaint in which it denies liability for Plaintiffs' alleged damages, denies that DBLS was its agent, and raises certain negative and affirmative defenses.

4 If Plaintiffs were damaged as alleged in their Complaint, and if Defendant BoatU.S. or Southern Delaware is deemed liable, such damages were not due to any fault on the part of Southern Delaware but were caused solely by reason of negligence and/or breach of contract by DBLS, and its servants, agents, or employees

WHEREFORE, Southern Delaware prays:

a That a judgment of indemnity be entered in favor of Southern Delaware against DBLS for any sums of money that may be adjudged against Southern Delaware in favor of BoatU S., together with disbursements, costs, and attorneys' fees;

b That a judgment for contribution be entered in favor of Southern Delaware against DBLS in accordance with the relative culpability of such entities for their proportionate share of any sums of money that may be adjudged against Southern Delaware in favor of BoatU.S.; and

c That this Court grant such other and further relief as the justice of this cause may require.

/s/

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/s/

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Attorneys for Third-Party Defendant
Southern Delaware Towing & Salvage, Inc

CERTIFICATE OF SERVICE

I HERBY CERTIFY that on this 14th day of August, 2007, a copy of this Cross-Claim was served by electronic filing on:

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